

## **BILL ANALYSIS**

Senate Research Center  
82R7459 MAW-D

H.B. 1215  
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Criminal Justice  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Recently, there has been a lot of publicity about tactics used by criminals to obtain personal financial data without the victim being aware at the time that the personal information is being stolen.

The purpose of H.B. 1215 is to protect people from identity theft by prohibiting the use of a device to capture personal information from a person's check or similar financial sight order, credit card, or debit card without that person's permission.

H.B. 1215 amends current law relating to the creation of the offense of unauthorized acquisition or transfer of certain financial information.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 31, Penal Code, by adding Section 31.17, as follows:

Sec. 31.17. UNAUTHORIZED ACQUISITION OR TRANSFER OF CERTAIN FINANCIAL INFORMATION. (a) Defines, in this section, "check," "credit card," and "financial sight order or payment card information."

(b) Provides that a person commits an offense if the person, knowing that the person is not entitled to obtain or possess that financial information:

(1) obtains the financial sight order or payment card information of another by use of an electronic, photographic, visual imaging, recording, or other device capable of accessing, reading, recording, capturing, copying, imaging, scanning, reproducing, or storing in any manner the financial sight order or payment card information; or

(2) transfers to a third party information obtained as described by Subdivision (1).

(c) Provides that an offense under Subsection (b)(1) is a Class B misdemeanor. Provides that an offense under Subsection (b)(2) is a Class A misdemeanor.

(d) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section or the other law.

SECTION 2. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.295, as follows:

Art. 2.295. REPORT REQUIRED IN CONNECTION WITH UNAUTHORIZED ACQUISITION OR TRANSFER OF CERTAIN FINANCIAL INFORMATION. (a) Requires a peace officer to whom an alleged violation of Section 31.17, Penal Code, is reported to make a written report to the law enforcement agency that employs the peace officer that includes the following information:

- (1) the name of the victim;
- (2) the name of the suspect, if known;
- (3) the type of financial sight order or payment card information obtained or transferred in violation of Section 31.17, Penal Code; and
- (4) the results of any investigation.

(b) Requires the law enforcement agency, on the victim's request, to provide the report created under Subsection (a) to the victim. Requires the law enforcement agency, in providing the report, to redact any otherwise confidential information that is included in the report, other than the information described by Subsection (a).

SECTION 3. Amends Chapter 13, Code of Criminal Procedure, by adding Article 13.295, as follows:

Art. 13.295. UNAUTHORIZED ACQUISITION OR TRANSFER OF CERTAIN FINANCIAL INFORMATION. Authorizes an offense under Section 31.17, Penal Code, to be prosecuted in any county in which the offense was committed or in the county of residence of the person whose financial sight order or payment card information was unlawfully obtained or transferred.

SECTION 4. Effective date: September 1, 2011.